CONFERENCE COMMITTEE REPORT DIGEST FOR ESB 518

Citations Affected: IC 5; IC 33; IC 34; IC 35.

Synopsis: Court procedures. Eliminates prepayment of filing fees and witness fees for proceedings filed solely to: (1) obtain a protective order to prevent dating violence, domestic violence, stalking, or sexual assault; or (2) enforce a foreign protection order. Establishes a late payment fee for the late payment of fines, civil penalties, and costs. Permits a county council to adopt an ordinance providing that 40% of late payment fees collected by the clerk of the circuit court are to be deposited in the clerk's record perpetuation fund, and 60% of the late payment fees are to be deposited in the county general fund. Establishes a sexual assault victims assistance fund to provide assistance to rape crisis centers. Establishes a sexual assault victims assistance court fee to fund the sexual assault victims assistance fund. Eliminates the power of the Marion County small claims court, which is not a court of record, to issue protective orders. Requires the clerk to provide the respondent in a protective order proceeding with a copy of the petition that excludes confidential information. Provides that a protective order is not nullified by an act of the protected person that is inconsistent with the order. Allows an employer to bring an action for a protective order to protect an employee. Provides for the registration and enforcement in Indiana of foreign protection orders issued by another state or an Indian tribe. Provides that when the court clerk sends a summons to the respondent in a protective order case, the clerk must send a copy of the petition that excludes information required to be kept confidential to the respondent. Grants immunity to a governmental entity or employee, including a law enforcement officer, that registers or enforces a protective order in good faith without malice. Expands the types of protective orders to which the crime of stalking applies. Provides that violation of a protective order issued by an Indian tribe or other related tribal government constitutes invasion of privacy. (This conference committee report: (1) replaces the term family or household member with the terms domestic violence and dating violence; (2) resolves a technical conflict with HEA 1130 and HEA 1856; (3) adds provisions adopted by the Senate in EHB 1874 that would increase the fees that the Marion County small claims court may impose for service of documents; (4) adds provisions adopted by the Senate in SB 298 that would establishes a late payment fee for the late payment of fines, civil penalties, and costs; and (5) removes provisions added by the House of Representatives that would do the following: (A) Require that a recent photograph and home address of a person convicted of certain sex offenses

and other crimes be included in publications of the sex and violent offender registry and require that a photograph of the offender be included on the Internet site maintained by the institute. (B) Require certain procedures for protective orders applicable to real estate disputes.)

Effective: Upon passage; July 1, 2001.

CONFERENCE COMMITTEE REPORT

MR. PRESIDENT:

Your Conference Committee appointed to confer with a like committee from the House upon Engrossed House Amendments to Engrossed Senate Bill No. 518 respectfully reports that said two committees have conferred and agreed as follows to wit:

that the Senate recede from its dissent from all House amendments and that the Senate now concur in all House amendments to the bill and that the bill be further amended as follows:

- Page 6, line 39, strike "any" and insert "a uniform statewide".
- 2 Page 6, line 40, strike "or approved".
- Page 7, line 25, after "the" insert "name,".
- 4 Page 9, line 3, delete "any" and insert "a uniform statewide".
- 5 Page 9, line 4, delete "or approved".
- Page 9, line 34, after "the" insert "name,".
- Page 11, line 6, after "in a" insert "**uniform statewide**".
- 8 Page 11, line 7, strike "or approved".
- Page 11, delete lines 24 through 42.
- Delete page 12.
- Page 13, delete lines 1 through 2.
- Page 13, line 22, delete "IC 33-19-6-18.2;" and insert "sexual assault
- victims assistance fees collected under IC 33-19-6-21.".
- Page 14, line 10, strike "six" and insert "**thirteen**".
- 15 Page 14, line 10, strike "(\$6)" and insert "(\$13)".
- Page 14, line 12, strike "eight" and insert "**thirteen**".
- 17 Page 14, line 12, strike "(\$8)" and insert "(\$13)".
- Page 14, line 13, delete "," and insert ";".
- 19 Page 14, line 13, strike "with the exception that".
- Page 14, line 15, strike "writs".
- Page 14, strike lines 16 through 17.
- Page 15, line 5, after "to" insert "**Orders to Protect a Person From**

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1
         Dating Violence,".
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            Page 15, line 5, delete "Offenses" and insert ", Sexual Assault, or
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         Stalking".
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           Page 15, line 10, after "(1)" insert "Dating Violence.".
           Page 15, line 10, before "Domestic" begin a new line block indented
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         and insert:
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              "(2)".
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           Page 15, line 11, delete "(2)" and insert "(3)".
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           Page 15, line 12, delete "(3)" and insert "(4)".
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           Page 15, between lines 12 and 13, begin a new paragraph and insert:
            "Sec. 2. As used in this chapter, "dating violence" has the
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         meaning set forth in 42 U.S.C. 3796gg-2.".
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           Page 15, line 13, delete "2" and insert "3".
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           Page 15, line 13, delete "means" and insert "has the meaning set
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         forth in 42 U.S.C. 3796gg-2.".
           Page 15, delete lines 14 through 41.
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           Page 17, line 6, after "of" insert "dating violence,".
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           Page 17, line 18, after "from" insert "dating violence,".
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           Page 17, line 23, after "IC 33-19-5-1" insert ", AS AMENDED BY
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         HEA 1130-2001,".
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           Page 17, between lines 40 and 41, begin a new line block indented
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         and insert:
              "(11) A judicial salaries fee (IC 33-19-6-18).
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             (12) A document storage fee (IC 33-19-6-18.1).
             (13) An automated record keeping fee (IC 33-19-6-19).
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             (14) A late payment fee (IC 33-19-6-20).".
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           Page 17, line 41, delete "(11)" and insert "(15)".
           Page 17, line 41, delete "." and insert "(IC 33-19-6-21).".
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           Page 18, between lines 33 and 34, begin a new paragraph and insert:
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           "SECTION 22. IC 33-19-5-2, AS AMENDED BY HEA 1130-2001,
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         IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1,
         2001]: Sec. 2. (a) Except as provided in subsections (d) and (e), for
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         each action that results in a judgment:
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             (1) for a violation constituting an infraction; or
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             (2) for a violation of an ordinance of a municipal corporation (as
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             defined in IC 36-1-2-10);
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         the clerk shall collect from the defendant an infraction or ordinance
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         violation costs fee of seventy dollars ($70).
           (b) In addition to the infraction or ordinance violation costs fee
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         collected under this section, the clerk shall collect from the defendant
         the following fees if they are required under IC 33-19-6:
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             (1) A document fee.
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             (2) An alcohol and drug services program user fee.
             (3) A law enforcement continuing education program fee.
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45
             (4) An alcohol and drug countermeasures fee.
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             (5) A highway work zone fee.
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             (6) A deferred prosecution fee (IC 33-19-6-16.2).
             (7) A judicial salaries fee (IC 33-19-6-18).
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             (8) A document storage fee (IC 33-19-6-18.1).
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             (9) An automated record keeping fee (IC 33-19-6-19).
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(10) A late payment fee (IC 33-19-6-20).

- (c) The clerk shall transfer to the county auditor or fiscal officer of the municipal corporation the following fees, within thirty (30) days after they are collected, for deposit by the auditor or fiscal officer in the user fee fund established under IC 33-19-8:
 - (1) The alcohol and drug services program user fee.
 - (2) The law enforcement continuing education program fee.
 - (3) The deferral program fee.

- (d) The defendant is not liable for any ordinance violation costs fee in an action in which:
 - (1) the defendant was charged with an ordinance violation subject to IC 33-6-3;
 - (2) the defendant denied the violation under IC 33-6-3-2;
 - (3) proceedings in court against the defendant were initiated under IC 34-28-5 (or IC 34-4-32 before its repeal); and
 - (4) the defendant was tried and the court entered judgment for the defendant for the violation.
- (e) Instead of the infraction or ordinance violation costs fee prescribed by subsection (a), the clerk shall collect a deferral program fee if an agreement between a prosecuting attorney or an attorney for a municipal corporation and the person charged with a violation entered into under IC 34-28-5-1 (or IC 34-4-32-1 before its repeal) requires payment of those fees by the person charged with the violation. The deferral program fee is:
 - (1) an initial user's fee not to exceed fifty-two dollars (\$52); and
 - (2) a monthly user's fee not to exceed ten dollars (\$10) for each month the person remains in the deferral program.

SECTION 30. IC 33-19-5-3, AS AMENDED BY HEA 1130-2001, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 3. (a) For each action filed under:

- (1) IC 31-34 or IC 31-37 (delinquent children and children in need of services); or
- (2) IC 31-14 (paternity);
- the clerk shall collect a juvenile costs fee of one hundred twenty dollars (\$120).
- (b) In addition to the juvenile costs fee collected under this section, the clerk shall collect the following fees if they are required under IC 33-19-6:
 - (1) A document fee.
 - (2) A marijuana eradication program fee.
 - (3) An alcohol and drug services program user fee.
- (4) A law enforcement continuing education program fee.
 - (5) An alcohol and drug countermeasures fee.
 - (6) A judicial salaries fee (IC 33-19-6-18).
 - (7) A document storage fee (IC 33-19-6-18.1).
- 46 (8) An automated record keeping fee (IC 33-19-6-19).
 - (9) A late payment fee (IC 33-19-6-20).
 - (c) The clerk shall transfer to the county auditor or city or town fiscal officer the following fees, within thirty (30) days after they are collected, for deposit by the auditor or fiscal officer in the appropriate user fee fund established under IC 33-19-8:

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1
             (1) The marijuana eradication program fee.
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             (2) The alcohol and drug services program user fee.
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             (3) The law enforcement continuing education program fee.".
           Page 18, line 34, after "IC 33-19-5-4" insert ", AS AMENDED BY
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         HEA 1130-2001,".
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           Page 19, between lines 25 and 26, begin a new line block indented
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         and insert:
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             "(3) A judicial salaries fee (IC 33-19-6-18).
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             (4) A document storage fee (IC 33-19-6-18.1).
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             (5) An automated record keeping fee (IC 33-19-6-19).
           SECTION 23. IC 33-19-6-1.5, AS AMENDED BY HEA 1130-2001,
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         IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1,
         2001]: Sec. 1.5. (a) Each clerk shall establish a clerk's record
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         perpetuation fund. The clerk shall deposit in the fund all:
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             (1) revenue received by the clerk for the transmitting of documents
             by facsimile machine to a person under IC 5-14-3; and
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             (2) document storage fees required under section 18.1 of this
             chapter; and
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             (3) the late payment fees imposed under section 20 of this
             chapter that are authorized for deposit in the clerk's record
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             perpetuation fund under IC 33-19-7-1.
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           (b) The clerk may use any money in the fund for the following
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         purposes:
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             (1) The preservation of records.
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             (2) The improvement of record keeping systems and equipment.
           SECTION 24. IC 33-19-6-20 IS ADDED TO THE INDIANA CODE
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         AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
         1, 2001]: Sec. 20. (a) This section applies in each action in which a
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         defendant:
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             (1) is found, in a court that has a local court rule imposing a
             late payment fee under this section, to have:
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               (A) committed a crime;
               (B) violated a statute defining an infraction;
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               (C) violated an ordinance of a municipal corporation; or
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               (D) committed a delinquent act;
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             (2) is required to pay:
               (A) court costs, including fees;
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               (B) a fine; or
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               (C) a civil penalty;
             (3) is not determined by the court imposing the court costs,
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             fine, or civil penalty to be indigent; and
             (4) fails to pay to the clerk the costs, fine, or civil penalty in full
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             before the later of the following:
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               (A) The end of the business day on which the court enters the
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               conviction or judgment.
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               (B) The end of the period specified in a payment schedule set
               for the payment of court costs, fines, and civil penalties
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               under rules adopted for the operation of the court.
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           (b) A court may adopt a local rule to impose a late payment fee
         under this section on defendants described in subsection (a).
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(c) Subject to subsection (d), the clerk of a court that adopts a

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- local rule imposing a late payment fee under this section shall collect a late payment fee of twenty-five dollars (\$25) from a defendant described in subsection (a).
- (d) Notwithstanding IC 33-19-2-2, a court may suspend a late payment fee if the court finds that the defendant has demonstrated good cause for failure to make a timely payment of court costs, a fine, or a civil penalty."
- Page 19, line 26, delete "IC 33-19-6-18.2" and insert "IC 33-19-6-21".
- Page 19, line 28, delete "18.2" and insert "21".
- Page 20, delete lines 3 through 7, begin a new paragraph and insert:
- 12 "SECTION 26. IC 33-19-7-1, AS AMENDED BY HEA 1130-2001,
- 13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1,
- 2001]: Sec. 1. (a) The clerk of a circuit court shall semiannually distribute to the auditor of state as the state share for deposit in the state general fund seventy percent (70%) of the amount of fees collected
- 17 under the following: 18 (1) IC 33-19-5-1

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- (1) IC 33-19-5-1(a) (criminal costs fees).
 - (2) IC 33-19-5-2(a) (infraction or ordinance violation costs fees).
- 20 (3) IC 33-19-5-3(a) (juvenile costs fees).
 - (4) IC 33-19-5-4(a) (civil costs fees).
 - (5) IC 33-19-5-5(a) (small claims costs fees).
 - (6) IC 33-19-5-6(a) (probate costs fees).
 - (7) IC 33-19-6-16.2 (deferred prosecution fees).
 - (b) The clerk of a circuit court shall semiannually distribute to the auditor of state for deposit in the state user fee fund established under IC 33-19-9-2 the following:
 - (1) Twenty-five percent (25%) of the drug abuse, prosecution, interdiction, and correction fees collected under IC 33-19-5-1(b)(5).
 - (2) Twenty-five percent (25%) of the alcohol and drug countermeasures fees collected under IC 33-19-5-1(b)(6), IC 33-19-5-2(b)(4), and IC 33-19-5-3(b)(5).
 - (3) Fifty percent (50%) of the child abuse prevention fees collected under IC 33-19-5-1(b)(7).
 - (4) One hundred percent (100%) of the domestic violence prevention and treatment fees collected under IC 33-19-5-1(b)(8).
 - (5) One hundred percent (100%) of the highway work zone fees collected under IC 33-19-5-1(b)(9) and IC 33-19-5-2(b)(5).
 - (6) One hundred percent (100%) of the safe schools fee collected under IC 33-19-6-16.3.
 - (7) One hundred percent (100%) of the automated record keeping fee fees collected under IC 33-19-6-19.
 - (c) The clerk of a circuit court shall monthly distribute to the county auditor the following:
 - (1) Seventy-five percent (75%) of the drug abuse, prosecution, interdiction, and correction fees collected under IC 33-19-5-1(b)(5).
- 49 (2) Seventy-five percent (75%) of the alcohol and drug countermeasures fees collected under IC 33-19-5-1(b)(6), IC 33-19-5-2(b)(4), and IC 33-19-5-3(b)(5).

The county auditor shall deposit fees distributed by a clerk under this subsection into the county drug free community fund established under IC 5-2-11.

- (d) The clerk of a circuit court shall monthly distribute to the county auditor fifty percent (50%) of the child abuse prevention fees collected under IC 33-19-5-1(b)(8). The county auditor shall deposit fees distributed by a clerk under this subsection into the county child advocacy fund established under IC 12-17-17.
- (e) The clerk of a circuit court shall semiannually distribute to the auditor of state for deposit in the state general fund one hundred percent (100%) of the judicial salaries fee. fees collected under IC 33-19-6-18.
- (f) The clerk of a circuit court shall monthly distribute to the county auditor one hundred percent (100%) of the late payment fees collected under IC 33-19-6-20. The county auditor shall deposit fees distributed by a clerk under this subsection as follows:
 - (1) If directed to do so by an ordinance adopted by the county fiscal body, the county auditor shall deposit forty percent (40%) of the fees in the clerk's record perpetuation fund established under IC 33-19-6-1.5 and sixty percent (60%) of the fees in the county general fund.
 - (2) If the county fiscal body has not adopted an ordinance under subdivision (1), the county auditor shall deposit all the fees in the county general fund.
- (g) The clerk of the circuit court shall semiannually distribute to the auditor of state for deposit in the sexual assault victims assistance fund established under IC 16-19-13-6 one hundred percent (100%) of the sexual assault victims assistance fees collected under IC 33-19-6-21.

SECTION 27. IC 33-19-7-4, AS AMENDED BY HEA 1130-2001, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 4. (a) The clerk of a city or town court shall semiannually distribute to the auditor of state as the state share for deposit in the state general fund fifty-five percent (55%) of the amount of fees collected under the following:

- (1) IC 33-19-5-1(a) (criminal costs fees).
- (2) IC 33-19-5-2(a) (infraction or ordinance violation costs fees).
- (3) IC 33-19-5-4(a) (civil costs fees).
- (4) IC 33-19-5-5 (small claims costs fees).
 - (5) IC 33-19-6-16.2 (deferred prosecution fees).
 - (b) Once each month the city or town fiscal officer shall distribute to the county auditor as the county share twenty percent (20%) of the amount of fees collected under the following:
 - (1) IC 33-19-5-1(a) (criminal costs fees).
 - (2) IC 33-19-5-2(a) (infraction or ordinance violation costs fees).
- (3) IC 33-19-5-4(a) (civil costs fees).
- (4) IC 33-19-5-5 (small claims costs fees).
 - (5) IC 33-19-6-16.2 (deferred prosecution fees).
- (c) The city or town fiscal officer shall retain twenty-five percent (25%) as the city or town share of the fees collected under the following:

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(1) IC 33-19-5-1(a) (criminal costs fees).
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- (2) IC 33-19-5-2(a) (infraction or ordinance violation costs fees).
- (3) IC 33-19-5-4(a) (civil costs fees).

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- (4) IC 33-19-5-5 (small claims costs fees).
- (5) IC 33-19-6-16.2 (deferred prosecution fees).
- (d) The clerk of a city or town court shall semiannually distribute to the auditor of state for deposit in the state user fee fund established under IC 33-19-9 the following:
 - (1) Twenty-five percent (25%) of the drug abuse, prosecution, interdiction, and corrections fees collected under IC 33-19-5-1(b)(5).
 - (2) Twenty-five percent (25%) of the alcohol and drug countermeasures fees collected under IC 33-19-5-1(b)(6), IC 33-19-5-2(b)(4), and IC 33-19-5-3(b)(5).
 - (3) One hundred percent (100%) of the highway work zone fees collected under IC 33-19-5-1(b)(9) and IC 33-19-5-2(b)(5).
 - (4) One hundred percent (100%) of the safe schools fee collected under IC 33-19-6-16.3.
 - (5) One hundred percent (100%) of the automated record keeping fee fees collected under IC 33-19-6-19.
- (e) The clerk of a city or town court shall monthly distribute to the county auditor the following:
 - (1) Seventy-five percent (75%) of the drug abuse, prosecution, interdiction, and corrections fees collected under IC 33-19-5-1(b)(5).
 - (2) Seventy-five percent (75%) of the alcohol and drug countermeasures fees collected under IC 33-19-5-1(b)(6), IC 33-19-5-2(b)(4), and IC 33-19-5-3(b)(5).

The county auditor shall deposit fees distributed by a clerk under this subsection into the county drug free community fund established under IC 5-2-11.

- (f) The clerk of a city or town court shall semiannually distribute to the auditor of state for deposit in the state general fund one hundred percent (100%) of the judicial salaries fee. fees collected under IC 33-19-6-18.
- (g) The clerk of a city or town court shall distribute monthly to the city or town fiscal officer (as defined in IC 36-1-2-7) one hundred percent (100%) of the late payment fees collected under IC 33-19-6-20. The city or town fiscal officer (as defined in IC 36-1-2-7) shall deposit fees distributed by a clerk under this subsection in the city or town general fund."
- Page 21, line 2, after "(5)" insert "organized".
- Page 21, line 2, delete "that is organized".
- Page 25, line 9, after "The" insert "**nonconfidential**".
- Page 25, line 12, delete ", on a separate or detachable nonconfidential".
- 47 Page 25, delete lines 13 through 14.
- 48 Page 25, line 15, delete "(A)".
- 49 Page 25, run in lines 12 and 15.
- Page 25 line 19, delete "and".
- Page 25, delete lines 20 through 24.

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           Page 26, line 12, after "a" insert "uniform statewide".
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           Page 26, line 13, strike "or approved".
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           Page 26, line 14, delete ";" and insert "that has been completed by
         the petitioner or the person on whose behalf the petition is filed;".
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           Page 26, delete lines 32 through 42, begin a new paragraph and
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         insert:
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            "SECTION 43. IC 34-26-2-8 IS AMENDED TO READ AS
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         FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 8. When a court issues
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         an emergency protective order under section 5 of this chapter that
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         directs the respondent to refrain from the acts described in section 6(1),
         6(2), or 6(3) of this chapter:
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             (1) the clerk of the court shall comply with IC 5-2-9; and
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             (2) the petitioner shall file a completed copy of the uniform
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             statewide confidential form prescribed or approved by the division
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             of state court administration with the clerk.".
           Page 27, delete lines 1 through 8.
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           Page 27, line 21, after "separate the" insert "uniform statewide".
           Page 27, line 21, after "form" insert "completed by the petitioner or
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         the person on whose behalf the petition is filed".
           Page 27, line 21, delete "If".
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           Page 27, delete lines 22 through 42, begin a new paragraph and
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         insert:
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            "(d) The division of state court administration shall prescribe a
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         single uniform confidential form to be used in all courts under this
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         chapter.
           SECTION 45. IC 34-26-2-16 IS AMENDED TO READ AS
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         FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 16. When a court issues
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         a protective order under section 12(1)(A), 12(1)(B), or 12(1)(C) of this
2.8
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         chapter or an emergency protective order under section 5 of this
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         chapter:
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             (1) the clerk of the court shall comply with IC 5-2-9; and
             (2) the petitioner shall file a completed copy of the uniform
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             statewide confidential form prescribed or approved by the division
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             of state court administration with the clerk.".
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           Page 28, delete lines 1 through 41.
           Page 31, line 21, after "completed" insert "uniform statewide".
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           Page 31, line 21, delete "or approved".
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           Page 32, line 21, after "with" insert "uniform statewide".
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           Page 32, line 23, delete "or approved".
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           Page 37, line 18, delete "other".
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           Page 39, line 19, delete "other".
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           Page 40, line 33, delete "or approve".
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           Page 40, line 35, delete "or approve".
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           Page 40, line 36, delete "and".
45
           Page 40, between lines 36 and 37, begin a new line block indented
46
         and insert:
              "(3) prescribe forms needed to implement IC 34-26-2.5; and".
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           Page 40, line 37, delete "(3)" and insert "(4)".
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           Page 40, line 39, delete "or approved".
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           Page 40, line 41, delete "easy".
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1 Renumber all SECTIONS consecutively.
(Reference is to ESB 518 as reprinted April 13, 2001.)

Conference Committee Report on Engrossed Senate Bill 518

Sig	gned by:
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Senator Clark Chairperson	Representative Lawson L
Senator Lanane	Representative Becker
Senate Conferees	House Conferees